

EDMUND G. BROWN JR., Attorney General
of the State of California
JOSE R. GUERRERO, State Bar No. 97276
Supervising Deputy Attorney General
CATHERINE E. SANTILLAN
Senior Legal Analyst
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5579
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. S-391

DARYLE ARTHUR JAGER
25 Beacon Street, Apartment 20
Somerville MA 02143

STATEMENT OF ISSUES

Applicant/Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about February 7, 2007, the Respiratory Care Board of California, Department of Consumer Affairs received an application for a respiratory care practitioner license from Daryle Arthur Jager (Respondent). On or about January 30, 2007, Daryle Arthur Jager certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on September 28, 2007.

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1 8. Section 3752 of the Code states:

2 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
3 made to a charge of any offense which substantially relates to the qualifications,
4 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
5 the meaning of this article. The board shall order the license suspended or revoked, or
6 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
7 conviction has been affirmed on appeal or when an order granting probation is made
8 suspending the imposition of sentence, irrespective of a subsequent order under Section
9 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
10 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
11 accusation, information, or indictment.”

12 9. California Code of Regulations (CCR), title 16, section 1399.370, states:

13 “For the purposes of denial, suspension, or revocation of a license, a crime or act
14 shall be considered to be substantially related to the qualifications, functions or duties of
15 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
16 perform the functions authorized by his or her license or in a manner inconsistent with the
17 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
18 those involving the following:

19 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
20 abetting the violation of or conspiring to violate any provision or term of the Act.

21 “(b) Conviction of a crime involving fiscal dishonesty, theft, or larceny.”

22 COST RECOVERY

23 10. Section 3753.5, subdivision (a) of the Code states:

24 “In any order issued in resolution of a disciplinary proceeding before the board,
25 the board or the administrative law judge may direct any practitioner or applicant found to have
26 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
27 investigation and prosecution of the case.”

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1 11. Section 3753.7 of the Code states:

2 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
3 include attorney general or other prosecuting attorney fees, expert witness fees, and other
4 administrative, filing, and service fees."

5 12. Section 3753.1 of the Code states:

6 "(a) An administrative disciplinary decision imposing terms of probation may
7 include, among other things, a requirement that the licensee-probationer pay the monetary costs
8 associated with monitoring the probation. "

9 **2003 Conviction**

10 13. On or about December 9, 2002, a criminal complaint titled *State of Kansas*
11 *vs. Daryle Arthur Jager*, case no. 02CR3355 was filed in District Court of Johnson County,
12 Kansas.

13 Count I charged respondent with a violation of Kansas State Act (K.S.A.) 40-2,
14 118, K.S.A. 21-4704 and K.S.A. 21-4707, knowingly presenting a false insurance claim with a
15 monetary value of at least \$5,000.00 but less than \$25,000.00.

16 Count II charged respondent with a violation of K.S.A. 21-3302, K.S.A. 21-4704,
17 and K.S.A. 21-4707, conspiracy to commit a fraudulent insurance act.

18 Count III charged respondent with a violation of K.S.A. 21-3818 and K.S.A 21-
19 4502(1)(a), providing false information to a police officer.

20 14. On or about December 12, 2003, respondent was convicted on his plea of
21 guilty to Count II, a felony, conspiracy to commit a fraudulent insurance act. On or about
22 February 12, 2004, probation was granted for twelve months, and respondent was ordered to
23 serve four days at the Johnson County Adult Detention Center prior to probation referral. He
24 was ordered to pay restitution of \$492.00 to Farmers Insurance Company, have no contact with
25 the insurance company, and perform thirty hours of community service.

26 **FIRST CAUSE FOR DENIAL OF APPLICATION**

27 (Conviction)

28 15. Respondent's application is subject to denial under Business & Professions

1 code sections 3750(d), 3750(g), 3752 [conviction] and CCR 1399.370(b) in that his 2003 felony
2 conviction of conspiracy to commit insurance fraud in violation of Kansas State Act 21-3302;
3 40-2, 118 is substantially related to the practice of respiratory care.

4 SECOND CAUSE FOR DENIAL OF APPLICATION

5 (Dishonest Act)

6 16. Paragraphs 13 and 14 are incorporated herein.

7 17. Respondent's application is subject to denial based on his 2003 felony
8 conviction of conspiracy to commit insurance fraud in violation of Kansas State Act 21-3302;
9 40-2, 118, which is in violation of code section 3750(j) [dishonest act].

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

13 1. Denying the application of Daryle Arthur Jager for a respiratory care
14 practitioner license;

15 2. Directing Daryle Arthur Jager to pay the Respiratory Care Board of
16 California the costs of the investigation and enforcement of this case, and if placed on probation,
17 the costs of probation monitoring;

18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: December 4, 2007

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22 Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant
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